

## Fact Sheet on Foster Parent Liability Insurance

OFFICE OF THE COMMISSIONER OF INSURANCE

PI-048 (R 02/2004)



The Office of the Commissioner of Insurance has prepared this fact sheet to answer questions which have been raised concerning liability insurance coverage for foster children.

### **May insurance companies treat foster children differently from other children in the family?**

No. It is the position of the Insurance Commissioner's Office that any liability insurance coverage in a homeowner's or renter's insurance policy applies equally to all children in the household, including foster children.

### **May foster care be considered a business by an insurance company?**

No. Care of foster children is not a business. Monthly payments provided are to meet the needs of the foster children only and are not to be used as remuneration for the foster parent. The allowances are not considered taxable income by the federal government.

### **What acts are covered by liability insurance?**

**Intentional** acts by any child in a family are generally *excluded* from coverage in a homeowner's or renter's policy. **Unintentional** bodily injury or property damage to a third party is covered by the liability portion in most homeowner's or renter's policies. The courts decide on the basis of the child's age and the circumstances of the claim, whether the child's actions are intentional or unintentional. This would apply to both foster children and other children in the family.

### **Are foster parents required to have liability insurance coverage?**

Yes. Some county social services or human services departments ask parents to provide a "Foster Parents Insurance Verification Form" to confirm that they have homeowner's or renter's liability insurance on their foster children. This form does not obligate an insurance agent or company to provide more liability coverage than is provided to the other members of the insured's family. The Department of Health and Family Services will now accept the proof of the existence of a homeowner's and renter's insurance policy as adequate to fulfill its insurance requirements.

### **May an insurer refuse homeowner's or renter's insurance to someone who provides foster parent care?**

An insurer may underwrite applicants with foster children for homeowner's or renter's insurance on the same basis as it does other applicants.

### **What happens if a family is not able to obtain insurance?**

If a family with foster children is unable to obtain the required homeowner's or renter's insurance, or its insurance policy is nonrenewed or canceled, or payment of the premium would cause undue financial hardship, the family may request a waiver of the requirement from the licensing agency.

## **Is there any immunity from liability for foster parents?**

Except as provided in the state statutes for the use of fireworks and automobile insurance coverage, licensed foster parents are immune from civil liability for an act or omission of the foster parent while acting in the capacity of a foster parent or an act or omission of a foster child while in the foster parent's care. This immunity does not apply if the act or omission of a foster parent was not done in good faith or was not in compliance with any written instructions received from the agency that placed the child.

## **Wisconsin Insurance Plan**

Foster parents who are having trouble obtaining adequate property insurance in the voluntary market should apply to the Wisconsin Insurance Plan (WIP). This is a plan which provides liability and property insurance to homeowners who are unable to obtain coverage in the voluntary market. For more information on the plan, contact any property insurance agent or:

**Wisconsin Insurance Plan**  
**700 West Michigan Street, Suite 320**  
**Milwaukee, Wisconsin 53233**  
**(414) 291-5353**  
[www.wisinsplan.com](http://www.wisinsplan.com)

## **Department of Health and Family Services Special Fund**

The Wisconsin Department of Health and Family Services administers the Foster/Treatment Foster and Family-Operated Group Home Insurance Program ([http://dhfs.wisconsin.gov/dhfs\\_info/infomemos/2001/2001-04\\_brochure.pdf](http://dhfs.wisconsin.gov/dhfs_info/infomemos/2001/2001-04_brochure.pdf)). This program was created by the Wisconsin Legislature to assure that foster, treatment foster and family-operated group home parents and their families are reimbursed for damages or loss they might experience that are caused by acts or omissions of children placed in their care and that are not covered by private insurance policies.

For additional information, contact the social worker for the child who is placed in your foster or group home.

## **Insurance Commissioner's Office**

Anyone who has questions about insurance protection for foster children and is unable to get satisfactory answers or service from an insurance agent or company, contact the Office of the Commissioner of Insurance (OCI).

For information on how to file insurance complaints call:

(608) 266-0103 (In Madison)  
or  
1-800-236-8517 (Statewide)

Mailing Address  
Office of the Commissioner of Insurance  
P.O. Box 7873  
Madison, WI 53707-7873

Electronic Mail  
[information@oci.state.wi.us](mailto:information@oci.state.wi.us)  
(please indicate your name, phone number, and e-mail address)

OCI's World Wide Web Home Page  
[oci.wi.gov](http://oci.wi.gov)